IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL PENNEL, JR., Plaintiff, v. NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, ET AL., Defendants.	Case No. 1:16-cv-02889-JRA Judge John R. Adams DEFENDANTS' STATUS REPORT

After the Court's November 30 hearing, Defendants—the NFL and NFL Management Council (collectively, the "NFL") and the NFL Players Association (the "NFLPA")—conferred with one another and with Mr. Pennel's counsel, as instructed by the Court, in an effort to resolve this matter.

Since the hearing, two critical things have happened. First, the NFL and NFLPA jointly selected a third arbitrator—Shyam Das—to act as a hearing officer under the Policy. *See* Ex. A. Mr. Das has been a full-time arbitrator since 1977. His resume (*see* Ex. B) includes arbitral service as: Chairman of the Arbitration Panel, Major League Baseball and MLB Players Assn. (1999-2012); Chairman, Board of Arbitration of U.S. Steel Corporation and United Steelworkers (1997-); National Arbitrator for: US Postal Service and Postal Workers (1996-); USPS and Mail Handlers (2002-); USPS and Letter Carriers (2003-); USPS and Rural Letter Carriers (2014-); and National Football League and NFL Players Assn. (2004-) (capacity other than a hearing officer under the Policy).

Second, the NFL has agreed to a continuance of the December 6 arbitration appeal hearing (something the NFLPA previously agreed to). The matter has now been referred to the

Notice Arbitrator (Mr. Wong) for rescheduling in front of one of the three arbitrators. *See* Ex. C (Mr. Wong's appointment as Notice Arbitrator). Mr. Wong has not yet set a new date for the appeal hearing.

The NFL's and NFLPA's appointment of a third neutral arbitrator under the Policy, and referral to the Notice Arbitrator for rescheduling of Mr. Pennell's appeal, should eliminate Mr. Pennel's ostensible need for a TRO in this case.

Defendants have maintained, and continue to maintain, that the request for a TRO is legally defective in myriad respects, and that there was no non-compliance with the Policy. Nevertheless, in light of the Court's concerns and in the interests of resolving this matter, Defendants have taken the above steps.

Conclusion

Plaintiff remains able to perform work for his team, a hearing is no longer scheduled for December 6, a third neutral arbitrator has been appointed, and the Notice Arbitrator will reschedule a hearing. The NFL and NFLPA respectfully submit that Monday's hearing should be taken off calendar. Further, the NFL and NFLPA will confer with Plaintiff over a motion to dismiss briefing schedule and present it to the Court, as this action should now be dismissed.

Respectfully submitted,

Dated: December 2, 2016

/s/ Philip M. Oliss

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendants' Status Report was electronically filed on December 2, 2016. Notice of this filing will be sent to all Parties by operation of the Court's electronic filing system. The Parties may access this filing through the Court's system.

/s/ Philip M. Oliss

Attorney for the Defendants National Football League and National Football Management Council